

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**JOSE NAVARRO**

**V.**

**BERKLEY SOUTHEAST  
INSURANCE GROUP**

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§  
§  
§  
§  
§

**CIVIL ACTION NO. 4:20-CV-00693**

**DEFENDANT'S NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, Continental Western Insurance Company (improperly sued herein as Berkley Southeast Insurance Group), the defendant in the above entitled and numbered cause, and files this its notice of removal, and in support thereof would respectfully show unto this Honorable Court as follows:

**I.  
STATE COURT ACTION**

This case was initially filed in the 361st Judicial District Court of Brazos County, Texas. The state court action is styled Jose Navarro vs. Berkley Southeast Insurance Group, Cause No. 19-003584-CV-361, filed in the 361st Judicial District Court of Brazos County, Texas.

**II.  
PARTIES**

The plaintiff, Jose Navarro, is, upon information and belief, an individual citizen and resident of Brazos County, Texas.

The defendant, Continental Western Insurance Company (improperly sued herein as Berkley Southeast Insurance Group) ("Continental"), is a corporation organized under the laws of the State of Iowa with its principal place of business in the State of Iowa.

### **III. JURISDICTION**

This Court has jurisdiction over the subject matter of this cause, pursuant to 28 U.S.C. § 1332, because this is a civil action in which the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different states. Accordingly, this cause is removable pursuant to 28 U.S.C. § 1441 and § 1446.

### **IV. TIMELINESS**

No proper service of process has been accomplished in this case. The plaintiff's original petition was filed on December 27, 2019 against Berkley Southeast Insurance Group ("Berkley"); however, the plaintiff's attempt to serve Berkley is invalid. The plaintiff's original petition notes that Berkley is a foreign company who may be served through its registered agent for service, Meyer & Rosenbaum, at 2405 8th Street, Meridian, MS 39301. Yet, the return of service indicates that the citation was delivered to an individual named Paula Reeves, with a vague notation of "claims," at 1901 Front Street, Lauderdale County, presumably in Mississippi. See Exhibit B. Accordingly, Berkley has not been served with process.

Even if process had been properly served on Berkley, it is Continental, not Berkley, that is the proper defendant in this case. Continental has yet to be served with process. Continental issued the insurance policy at issue in this lawsuit and, thus, is the intended and proper defendant. See Exhibit G. The registered agent for Continental in Texas is CT Corporation System, located at 1999 Bryan Street, Suite 900, Dallas, Texas 75201, and

Continental's registered agent has not been served with citation and the plaintiff's original petition.

Because Continental has not been served, thirty days cannot have elapsed since Continental was served with process. Accordingly, pursuant to 28 U.S.C. § 1446, this notice of removal is timely and proper.

## **V. ATTACHMENTS**

Pursuant to 28 U.S.C. § 1446(a), Local Rule 3, and Local Rule 81, the following exhibits are attached hereto and incorporated herein by reference for all purposes:

- a. Exhibit A: Civil action cover sheet;
- b. Exhibit B: Copies of all executed processes in the case, if any;
- c. Exhibit C: Copies of all pleadings asserting causes of action and all answers to such pleadings;
- d. Exhibit D: Copies of all orders signed by the state court judge, if any;
- e. Exhibit E: A copy of the state court docket sheet;
- f. Exhibit F: An index of matters being filed;
- g. Exhibit G: A list of all counsel of record, including addresses, telephone numbers, and parties represented; and
- h. Exhibit H: A copy of the declarations page for Continental policy no. CPA 4269989-44.

## **VI. CONDITIONS PRECEDENT**

The defendant has tendered the filing fee required by the Clerk of the United States District Court for the Southern District of Texas, Houston Division, along with this notice of removal. A copy of this notice of removal is also being filed in the 361st Judicial District

Court of Brazos County, Texas, and all counsel of record are being provided with complete copies.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, the defendant respectfully requests that the above action, styled Jose Navarro vs. Berkley Southeast Insurance Group, Cause No. 19-003584-CV-361, filed in the 361st Judicial District Court of Brazos County, Texas, be removed to this Court.

Respectfully submitted,

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/s/ Greg C. Wilkins  
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ATTORNEYS FOR DEFENDANT,  
CONTINENTAL WESTERN  
INSURANCE COMPANY

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 27th day of February 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and also forwarded it to all known counsel of record by Certified Mail, Return Receipt Requested.

/s/ Greg C. Wilkins  
Greg C. Wilkins